



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
RINAT HAFIZOV,

Plaintiff,

- against -

BDO USA, LLP, et al,

Defendants. :
-----X

22-CV-8853 (JPC) (RWL)

ORDER

ROBERT W. LEHRBURGER, United States Magistrate Judge.

This order resolves the discovery dispute raised by Plaintiff at Dkt. 102, responded to by Defendants at Dkt. 103, and previously addressed by the Court at the conference held on July 19, 2023. The Court has reviewed the transcript of that conference (Dkt. 92), the pleadings, the discovery requests, and other relevant items from the docket. The Court finds that the hearing transcript is ambiguous with respect to the three categories about which the Court ruled on page 49 (*compare* Plaintiff counsel's descriptions at pages 41 and 44). Having considered the matter further, and taking into account concerns relevant to proportionality, the Court rules as follows. To the extent this order is inconsistent with the Court's previous statements during the July 19, 2023 conference, this order controls.

1. Defendants shall produce the following:

a. Communications sent by Ms. Bernier, Mr. Dymment, or Mr. Montorio to other BDO employees that refer to one or more discriminatory protected characteristics related to nationality, ethnicity, race, or religion.

b. Documents comprising or referencing complaints made by BDO employees to Human Resources about discriminatory conduct of, or hostile work

environment contributed to by, Ms. Bernier, Mr. Dymont, or Mr. Montorio with respect to nationality, ethnicity, race, or religion.

2. Notwithstanding the Court's comment at the conference about scope that "is fine" on page 49 of the transcript, the Court continues to find the terms "professionalism" and "misconduct" as used in Plaintiff's discovery requests to be impermissibly vague and unenforceable.

3. This order does not address the scope of documents regarding retaliatory conduct as Plaintiff's letter at Dkt. 102 limits the dispute to two categories other than that.

SO ORDERED.

A handwritten signature in black ink, appearing to read 'R. Lehrburger', with a long horizontal flourish extending to the right.

ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE

Dated: August 25, 2023
New York, New York

Copies transmitted this date to all counsel of record.